IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.969 OF 2005

WITH

CIVIL APPLICATION NO.1141 OF 2005

Chandu Tulsidas Pakhuja ..Appellant.

Vs.

Mrs.Malvika Varma & Ors. ..Respondents.

....

Mr.S.M.Sakhardande for the Appellant.

Mrs.A.R.Lambey for Respondent Nos.1 to 4.

...

CORAM : DR.D.Y.CHANDRACHUD, J.

14th December, 2005.

P.C. :

The Appellant is a member of a co-operative housing society with a flat situated on the sixth floor. Respondents 1 and 2 are owners of a residential flat and similarly Respondents 3 and 4 are owners of a flat in the same society. Counsel appearing for the Appellant made a grievance about

the fact that the relations between the parties are strained and that in the event the Respondents seek to enter upon the flat of the Appellant for rectifying the leakage which is alleged to exist, there should be a compliance with the provisions of the bye-laws of the co-operative society. In response to the aforesaid submission it has been submitted on behalf of the Respondents that the Respondents at no stage attempted to encroach upon the rights of the Appellant as a member of the co-operative society and that the Respondents have no intention of doing so. Counsel appearing for the Respondents states that the Municipal Corporation has issued a notice under Section 351 of the Mumbai Municipal Corporation Act 1888 to the Appellant and it has been urged that this proceeding has been instituted only with a view to obviate compliance with the notice. It is not necessary for the Court to make any observations in respect of the notice issued under the Mumbai Municipal Corporation Act, 1888 since that does not form the subject matter of the present Appeal from Order. In view of the submission which has been made on behalf of the Respondents that the Respondents have not and do not intend to encroach

upon the rights available to the Appellant as a member of the co-operative society, it is not necessary to entertain this Appeal which is accordingly disposed of.

In view of the disposal of the Appeal from Order, the Civil Application is rendered infructuous and is accordingly disposed of.